

REMARKS AND RESPONSES

Claim 1 has been amended, and claim 7 has been newly added. Claims 1-7 remain pending in the present application. Support for the amendments is found in the specification and claims as filed. Accordingly, the amendments do not constitute the addition of new matter. Reconsideration of the application in view of the foregoing amendments and following comments is respectfully requested.

An Information Disclosure Statement is being filed herewith. Notification of receipt and consideration of this Information Disclosure Statement are requested.

Claim Rejections - 35 U.S.C. § 102

With respect to paragraphs 1 and 2 of the Office Action, the Office Action rejected claim 1 under 35 U.S.C. §102(e) as being anticipated by Suh (US 2002/00126381 A1). This rejection is respectfully traversed.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053(Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the ...claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). (MPEP 2131)

In the amended claim 1 of the present invention, a method of fabricating an air gap between optical devices comprising forming at least two spacers on each of two opposite edges of a surface of one of the two optical devices. The at least two spacers, formed on each of two opposite edges, are separate from one another with a predetermined interval. An adhesive is applied onto the predetermined interval between the at least two spacers on each of two opposite edges, except an area between the two opposite edges. Thus, an air gap, served as a light path, is formed between the two optical devices while two optical devices are adhered by a cured adhesive.

However, Suh fails to disclose a method of fabricating an air gap between optical devices. As disclosed in FIG. 4 of Suh, “mixture 410 is distributed near the corners of mating surfaces”. As disclosed in paragraph 41 of Suh, “**an optical filler** (e.g., an adhesive) can be deposited in the **center** of one or both of the mating surfaces to uniformly fill the remaining space as two mating surfaces are forced together”. As disclosed in paragraph 45 and FIG. 8 of Suh, “optical filler 834 and mixture 832 are compressed from the applied force, which causes them to spread out and substantially fill gap 830. As optical filler 834 squeezes, air inside gap 830 may be pushed out... such that **substantially no air bubbles** form in the optical path”. That is, the method disclosed by Suh tends to fill the gap, constructed by mixture 410, between two optical substrates with an optical filler (e.g., an adhesive) and without any air at all. The optical filler, rather than an air gap, serves as an optical path. Accordingly, Suh discloses a method of stacking optical substrates having **an optical filler** between two substrates, rather than a method of fabricating **an air gap** between optical devices, much less an **identical** method of fabricating an air gap between optical devices as defined by the amended claim 1.

Since Suh fails to disclose an identical method of fabricating an air gap between optical devices as defined by the amended claim 1, the novel features of the amended claim 1 produce new and unexpected results and hence are unobvious and patentable over Suh. Accordingly, Applicant respectfully submits that independent claim 1 is allowable over the prior art Suh and respectfully requests the 35 U.S.C. §102(e) rejection of claim 1 to be reconsidered and withdrawn.

Claim Rejection - 35 U.S.C. §103

With respect to paragraph 4 of the Office Action, claim 2 is rejected under 35 U.S.C. §103(a) as being unpatentable over Suh (US 2002/00126381 A1) in view of applicant’s admitted prior art or Benneyworth (US 6,704,145). This rejection is traversed.

With respect to paragraph 5 of the Office Action, claims 3 and 4 are rejected under 35 U.S.C. §103(a) as being unpatentable over Suh (US 2002/00126381 A1) in view of either one of Zhou (US 5,953,469), Maule (US5,434,663), or Fushimi (JP 2003-149414). This rejection is traversed.

With respect to paragraph 6 of the Office Action, claims 5 and 6 are rejected under 35 U.S.C. §103(a) as being unpatentable over Suh (US 2002/00126381 A1) and further in view of Tamura (US 6,137,555). This rejection is traversed.

All above rejected claims 2-6 depend from the amended claim 1.

If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). (MPEP §2143.03)

As stated above, Suh fails to disclose an identical method of fabricating an air gap between optical devices as defined by the amended claim 1. Therefore, the novel features of the amended claim 1 then produce new and unexpected results and hence are unobvious and patentable over Suh.

Even as Suh further in view of either one of Benneyworth (US 6,704,145), Zhou (US 5,953,469), Maule (US5,434,663), Fushimi (JP 2003-149414) or Tamura (US 6,137,555), all features as defined by the amended claim 1 are not taught or suggested. Thus, the novel features of the amended claim 1 produce new and unexpected results and hence are unobvious and patentable over the prior of record.

In addition, insofar claims 2-6 depend from the amended claim 1. These claims add further limitations thereto. Thus, claims 2-6 of the present application are also novel and unobvious over the prior art of record. Accordingly, Applicant respectfully submits that the rejections under 35 U.S.C. §103(a) should be withdrawn.

Reconsideration and withdrawal of these rejections is respectfully requested.

New Claim

Claim 7 has been newly added to the present application and includes novel features of the amended claim 1.

Suh further in view of either one of Benneyworth (US 6,704,145), Zhou (US 5,953,469), Maule (US5,434,663), Fushimi (JP 2003-149414) or Tamura (US 6,137,555), fails to teach or suggest all features as defined by the amended claim 7. Accordingly, novel features of

newly added claim 7 produce new and unexpected results and hence are unobvious and patentable over the prior of record.

Conclusions

For all of the above reasons, applicants submit that the specification and claims are now in proper form, and that the claims define patentably over prior arts. Therefore applicants respectfully request issuance for this case at the Office Action's earliest convenience.

In the event that any outstanding matters remain in this application, the Examiner is invited to contact the undersigned at (703) 205-8000 in the Washington, D.C. area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

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